

# ***EXHIBIT “A”***

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ESTES EXPRESS LINES  
3901 West Broad Street  
Richmond, Virginia 23230

Plaintiff

v

NEW CASTLE TRUCK REPAIR AND  
MANUFACTURING, INC  
1009 River Road  
New Castle, Delaware 19720

Defendant

CIVIL ACTION

NO. \_\_\_\_\_

COMPLAINT

**Parties**

1. Plaintiff Estes Express Lines ("Estes") is a motor carrier engaged in the performance of interstate carriage for hire by authority of the U.S. Surface Transportation Board pursuant to 49 U.S.C. § 13501.

2. Estes is a Virginia corporation with its principal place of business located at 3901 West Broad Street, Richmond, Virginia 23230.

3. Defendant New Castle Truck Repair and Manufacturing, Inc. ("New Castle") is, upon information and belief, a Delaware corporation with its place of business located at 1009 River Road, New Castle, Delaware 19720.

**Jurisdiction**

4. Jurisdiction in this matter is based upon 28 U.S.C. § 1337(a) as a cause of action arising under the Interstate Commerce Act, 49 U.S.C. §§ 10101, *et seq*.

5. The subject matter of this action stems from freight charges assessed pursuant to applicable agreements, tariffs, and rates governing the carriage of freight by motor carrier.

6. Venue lies in this judicial district by virtue of 28 U.S.C. § 1391(a) in that the defendant's principal place of business is in this judicial district.

7. The subject matter of this action stems from freight charges assessed pursuant to applicable agreements, tariffs and rates governing the common carriage of freight by motor carrier.

**Cause of Action**

8. Estes entered into an agreement with New Castle pursuant to which New Castle agreed to pay Estes for the interstate transport of freight by motor carrier.

9. Pursuant to the agreement between the parties, Estes served as a motor carrier transporting freight in interstate commerce on behalf of New Castle.

10. Estes presented New Castle with certified freight bills for each movement, and demanded payment of freight charges in accordance with the rates and terms agreed to by the parties. These rates include a "discount" for prompt payment that is removed if payment is not received in a timely manner. A true and correct copy of the list of freight charges with the discount is appended hereto as Exhibit "A" and incorporated herein by reference.

11. With the discount removed, the amount of freight charges due and owing to Estes from New Castle pursuant to governing tariffs presently totals \$26,463.60, plus accrued interest and costs.

12. Pursuant to the terms of the applicable tariff and agreements between the parties, Estes is contractually entitled to recover fees and costs presently in the amount of \$7,939.08 incurred as a result of having to file and pursue its claim in litigation before this Court.

13. Despite demand by Estes for payment, New Castle has refused to make payment of said freight bills.

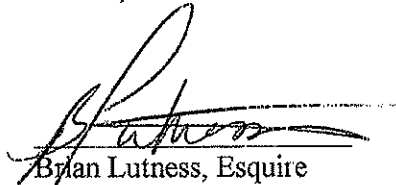
WHEREFORE, Estes Express Lines demands the following relief under its Complaint:

- a A judgment against defendant New Castle Truck Repair and Manufacturing, Inc. in the total amount of \$34,402.68 pursuant to the applicable tariffs and agreements;
- b Recovery of its costs, plus interest; and
- c Any and all other relief to which it is entitled.

Respectfully submitted,

SILVERMAN, McDONALD & FRIEDMAN

By:



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Attorneys for Plaintiff

Estes Express Lines

Dated: September 14, 2005

# ***EXHIBIT “A”***

DATE: 4/11/2005

CUSTOMER #: 2761020  
 Account Detail Report for Aging Break

TIME: 16:46:28  
 PAGE: 1

Program: RAR755

Pro Number	Statement Date	Billed Amount	Freight Bill Dt	Statement Number	Statement Bol#	Po#	Terms	Balance Due	Number P/D
006 1254221	2/03/05	188.44	1/31/05	1011756	NS	NS	COL	188.44	2
067 0121733	10/29/04	141.92	10/26/04	710832	NS	NS	COL	141.92	2
082 0269920	1/19/05	211.77	1/13/05	962071	NS	NS	COL	211.77	1
082 0304421	11/23/04	145.72	11/18/04	793237	NS	NS	COL	145.72	1
083 0358649	10/12/04	159.04	10/07/04	648146	C081201	NS	COL	159.04	2
083 0366677	1/13/05	287.82	8/27/04	553405	C082601	NS	PPD	145.90	2
083 0371826	1/14/05	86.60	1/11/05	948150	NS	NS	PPD	86.60	1
083 0371827	1/14/05	115.37	1/11/05	948150	NS	NS	PPD	115.37	1
083 0371831	1/19/05	93.53	1/14/05	962071	D011403	CODE RED	PPD	93.53	1
083 0371837	1/25/05	214.74	1/20/05	979716	NS	NA	PPD	214.74	1
083 0375638	10/15/04	159.58	10/12/04	662362	C101205	NS	PPD	159.58	2
083 0375639	10/15/04	101.52	10/12/04	662362	66030	NS	PPD	101.52	2
083 0375641	10/18/04	151.06	10/13/04	666929	C091605	NS	PPD	151.06	2
083 0375642	10/18/04	212.47	10/13/04	666929	C092902	NS	PPD	212.47	2
083 0375647	10/20/04	149.02	10/15/04	676781	C100804	NS	PPD	149.02	2
083 0376860	12/10/04	155.45	12/07/04	847686	NS	NS	PPD	155.45	1
083 0376862	12/20/04	86.41	12/15/04	877178	C121502	NS	PPD	86.41	1
083 0376863	12/20/04	188.23	12/15/04	877178	C121502	NS	PPD	188.23	1
083 0376866	12/28/04	84.03	12/22/04	899806	C121306	NS	PPD	84.03	1
083 0381255	1/07/05	153.14	1/04/05	925833	C122102	NS	PPD	153.14	1
083 0381268	1/24/05	107.95	1/19/05	975196	D011902	NS	PPD	107.95	1
083 0381273	1/27/05	163.21	1/24/05	988833	NS	NS	PPD	163.21	1
083 0383630	10/04/04	292.53	9/28/04	618986	NS	NS	PPD	292.53	1
083 0383632	10/04/04	148.80	9/29/04	618986	NS	NS	PPD	148.80	2
083 0383633	10/05/04	87.18	9/30/04	625115	NS	NA	PPD	87.18	2
083 0383634	10/05/04	91.31	9/30/04	625115	NS	NA	PPD	91.31	2
083 0383635	10/05/04	145.59	9/30/04	625115	NS	NA	PPD	145.59	2
083 0383640	10/06/04	81.81	10/01/04	630203	NS	NA	PPD	81.81	2
083 0383641	10/06/04	74.46	10/01/04	630203	NS	NA	PPD	74.46	2
083 0383643	10/07/04	178.91	10/04/04	634570	NS	NA	PPD	178.91	2
083 0383732	10/13/04	174.75	10/08/04	653480	NS	NA	PPD	174.75	2
083 0383737	10/25/04	83.47	10/20/04	691155	NS	NA	PPD	83.47	2
083 0383738	10/25/04	76.16	10/20/04	691155	NS	NA	PPD	76.16	2
083 0383739	10/25/04	369.48	10/20/04	691155	NS	NA	PPD	369.48	2
083 0383741	10/26/04	85.56	10/21/04	695844	NS	NA	PPD	85.56	2
083 0383742	10/26/04	81.03	10/21/04	695844	NS	NA	PPD	81.03	2
083 0383745	10/27/04	147.50	10/22/04	701521	NS	21-310277	PPD	147.50	2
083 0396405	2/08/05	109.16	2/03/05	1025265	NS	NA	PPD	109.16	2
083 0396414	2/10/05	84.03	2/07/05	1034404	NS	NA	PPD	84.03	2
083 0396416	2/11/05	271.24	2/08/05	1038878	NS	BOBBY	PPD	271.24	2
083 0396426	2/14/05	200.37	2/09/05	1043365	NS	NS	PPD	200.37	2
083 0396427	2/14/05	92.43	2/09/05	1043365	NS	NS	PPD	92.43	2
083 0396436	2/18/05	198.72	2/15/05	1061701	NS	NS	PPD	198.72	2
083 0396437	2/18/05	83.09	2/15/05	1061701	NS	NS	PPD	83.09	2
083 0396438	2/18/05	111.86	2/15/05	1061701	NS	NA	PPD	111.86	2
083 0396439	2/18/05	84.03	2/15/05	1061701	NS	NA	PPD	84.03	2
083 0396442	2/21/05	226.15	2/16/05	1066227	66474	BILL	PPD	226.15	2
083 0396448	2/23/05	143.12	2/18/05	1075351	NS	JOHN	PPD	143.12	2
083 0397352	10/29/04	75.04	10/26/04	710832	NS	NA	PPD	75.04	2
083 0397353	10/29/04	88.58	10/26/04	710832	NS	NA	PPD	88.58	2

DATE: 4/11/2005

CUSTOMER #: 2761020 ESTES EXPRESS LINES

CUSTOMER NAME: NEW CASTLE TRUCK REPAIR

TIME: 16:46:28

PAGE: 2

## Account Detail Report for Aging Break

Program: RAR755

Adj/ Pro	Statement	Billed	Freight	Statement	Po#	Terms	Balance	Number
Number	Date	Amount	Bill Dt	Number			Due	P/D
083 0397354	10/29/04	98.53	10/26/04	710832	0188	PPD	98.53	2
083 0397355	10/29/04	87.85	10/26/04	710832	34362	PPD	87.85	2
083 0397356	10/29/04	127.50	10/26/04	710832	NA	PPD	127.50	2
083 0397363	11/05/04	204.92	11/02/04	736050	NA	PPD	204.92	2
083 0397369	11/11/04	76.50	11/08/04	779156	NA	PPD	76.50	2
083 0397377	11/18/04	135.13	11/15/04	755380	JOE	PPD	135.13	2
083 0397391	12/02/04	110.80	11/29/04	817865	TODD	PPD	110.80	1
083 0397603	12/06/04	193.78	12/01/04	827661	NS	PPD	193.78	1
083 0397604	12/06/04	121.96	12/01/04	827661	NS	PPD	121.96	1
083 0397606	12/07/04	187.72	12/02/04	832752	BRIAN	PPD	187.72	1
083 0397607	12/07/04	87.20	12/02/04	837902	04-309974	PPD	87.20	1
083 0397610	12/08/04	87.46	12/03/04	837902	35327	PPD	87.46	1
083 0397618	12/15/04	87.19	12/10/04	862319	11201BOB	PPD	87.19	1
083 0397619	12/15/04	87.07	12/10/04	862319	35506	PPD	87.07	1
083 0397643	1/11/05	89.51	1/06/05	934416	12932PQ	PPD	89.51	1
083 0397644	1/11/05	191.11	1/06/05	934416	NA	PPD	191.11	1
083 0397650	1/14/05	134.76	1/11/05	948150	NA	PPD	134.76	1
083 0405321	11/02/04	121.57	10/28/04	720213	NA	PPD	121.57	1
083 0405322	11/02/04	76.50	10/28/04	720213	34-102753	PPD	76.50	2
083 0409451	12/10/04	134.27	12/07/04	847686	NA	PPD	134.27	1
523 5192596	1/27/05	412.91	1/24/05	988833	NS	COL	412.91	1
524 5270599	1/11/05	309.61	1/04/05	934416	NS	COL	309.61	1
524 5272439	1/24/05	308.37	1/19/05	975196	NS	COL	308.37	1
Total Due:							10573.68	